Sectt. II-27—36,000—30-10-37.

1944 Home (~~1937~~) Department.

Passed

~~Ms~~ SERIES.

(10)

G.O. No. ~~3~~ 3367

DATED 16 - 11 - 44

HOME (1944) Department

G.O.Ms.No. 3367 d/ 16-11-1944.

[Despatch Abstract.]

Escheat - South Kanara district - Mangalore Town - Casba Bazaar village - Properties of the late Chennabasappa Chetty - Handing over to the claimants - Proposal - Approved.

REVENUE DEPARTMENT.

Subject:-

ESCHEAT - Personal and real properties (S.Kanara) - Mangalore-town-Casba Bazaar village-Deceased Channabasappa Chetty-Escheat case No.1 of 1942 on the file of the Subordinate Judge of South Kanara.

From Ref.F.1798/43-7 dated 28-10-44.

R.Galletti Esq.,I.C.S.,
Joint Secretary, Board of Revenue.
A.F.W.Dixon Esq.,C.I.E.,I.C.S.,
Commissioner of Land Revenue.

Read the following:-

From the Collector of South Kanara Ref.A.3.2464/42 dated 29-9-44

REFERECNE:

Submitted to the Government.

2/ In view of the opinion of the Government pleader Mangalore which is supported by the Collector the Board is of the opinion that there is no use of filing a suit against the decision of the Sub-judge,South Kanara as the government have not the positive evidence for an attack on the claim. It therefore recommends that the Government may be pleased to accord sanction for handing over the real properties of the late Channabaseppa Chetty now in the possession of the Government to the claimants in the manner stated by the Collector in his letter.

For JOINT SECRETARY.

TO The Secretary to Government,
Home Department with enclosures
to be returned.

Copy of Ref.A.3-2464-42 dated 29-9-1944 from the Collector of South Kanara.

ESCHEAT - Personal and real properties (South Kanara) Mangalore town-Casba Bazaar village-Deceased Channabasappa Chetty-Escheat case No.1 of 1942 on the file of the Subordinate Judge of South Kanara.

Board's Ref.No.12056/42-3, dated 20-10-1942 and G.O.Home No.--4090 dated 3-11-1942.

The escheat case referred to in this office letter dated 16-8.-1942, has been decided by the Sub Judge against the Government. The Government at first relied on the will executed by Lingappa Chetty the father of the deceased last male holder--Channabasappa Chetty to show that the said Lingappa Chetty had only two undivided brothers Bhadraya and Basappa, both of whom died issueless and that therefore the family became extinct on the death of Channabasappa Chetty and his widow Gangamma, without leaving any legal heirs. There were two claimants to the property viz., Shivalingappa Chetty and his younger brother Shiva Chetty who alleged that they were the last male holder's great-grand-father's great-great-grandsons, as shown in the margin.* They based their claim on the partition deed dated 27-5-1852 executed between Chennappa and Sangaya and contended that the property which was allotted to Sangaya Chetty was the same as that in which the deceased Channabasappa Chetty lived and died The Tahsildar having however, reported that according to the Village accounts and the description of the property , the two properties appeared

*Bhadraya

Chennappa	Sangaya
Linganna Chetty	Lingappa
Chennappa alias Channabasappa Chetty	Chennabasappa (Last deceased)
Shivalingappa Chetty (Claimant)	Shiva Chetty (Claimant)

25 i

[Fwd]

Allowance - Travelling (Malabar)

Departmental enquiry into the conduct of the officers of Perur Amsam - Witness - claim Settled.

A. 1901/38. [From the Collr. of Mdd Mg. C-3-7893-38 dt 21.11.38]

LD. 2100651/38 dt 19.12.38

Under rule 1(a) of Part III of the Manual of Subsidiary Allowances, Vol. I, the Board sanctions the payment of a sum of Rs. 1-8-0 (Rupee one Annas eight only) as travelling allowance to the witness who attended the enquiry in connection with the misconduct of the Officers of Perur Amsam, Palghat Tk.

19.12.38

To the Collr of Malabar

appeared to be different, their claim was rejected by Government. During the pendency of the case, new light was thrown upon it by a suggestion put forward by the Tahsildar from secret information which he got that the claimants were not the persons whom they represented to be , but were impostors,-please see this office letter dated 10-6-1943. This clue was pursued, but sufficient evidence could not be gathered, as the claimants had influenced all persons connected with the case or likely to give evidence in favour of Government. These fears were expresed in this office letter dated 9-7-1943. The claimants filed 24 documents to prove the genealogy set up by them and examindd 9 witnesses to show that they were the persons whom they represented to be. There was no independent evidence on behalf of Government to rebut this evidence which the Sub-judge calls overwhelming. Attempt was, however, made to throw doubt upon the identity of the claimants, but it was very feeble and the Sub Judge has, as already stated above, decided the case against Government.

The enquiry held by the Sub-Judge is only a summary one-- under Section 16(7) of Regulation III of 1802 in respect of moveables. No appeal is provided for in this Regulation. The only course left for Government now is to consider whether a suit should be filed to set aside this summary order. The only evidence that could be adduced on behalf of Government cosisted of school records which has been discussed by the Sub-Judge in paras 8 to 11 of his--Judgment. The Government Pleader, Mangalore, states that it is extremely difficult to sustain any contemplated suit on this evidence, particularly in the face of the testimony of the teachers and that on the evidence placed before the Sub-Judge, the conclusion he has come to appears to be right . Still, as the Government Pleder said that if it was felt that the charge of false personation is not baseless, evidence might still be--gathered; one more attempt was made to see whether evidence could be gathered on this point. The reports of the Tahsildar, Puttur and the Deputy Tahsildar,-Boltangady however, show that no evidence is forthcoming to prove the charge of false personation. I am accordingly of opinion that it is not worthwhile to file a suit to set aside the summary order of the Sub Judge. I request the Board's Orders to make over to the claimants the property taken possession of and also the rents collected by Government, after deducting the --expenses incurred so far.

Copies of the Sub Judge's Judgment (in Original) and Government Pleader's letter dated31-7-44--are enclosed.

Below ----

Copy of Ref.No.A.419/44 dated 31-7-44 from the Govt.Pleader and Public Prosecutor,Mangalore.

- - - -

Escheat Case-Mangalore Taluk-properties of Chenna Bassappa Setty-Opinion.

Your Ref.A.3-2464-42, dated 21-7-44.

- - -

1. As usual I had applied for copies for appeal in this case. But the inquiry by the Subordinate Judge is only a summary inquiry held under Section 16(7) of Regulation III of 1802,in respect of--movables. No appealis provided for by this Regulation. I did not therefore pay printing charges, but obtained only a certified copy of the decree. Meanwhile I received the copy of the judgment from you What the Government have to consider now is whether a suit should be filed to set aside this summary order and also for a declaration of escheat of all the properties.

2.The facts are clear from the judgment. The crucial question before the court was whether the claimants Sivalingappa and Somasekhara who are brothers are children of the one Chinna Bassappa son of Linganna*/in 1929 showed that he had two children by that name.

3. It may be recalled that I had photographs taken of the claimants under my personal direction, and had forwarded them to -----

*/ Ex.P 15,a registered sale deed by Chinnabassappa son of Linganna

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45 முதல் G-7076 C-8787

Ref.10752-34-F.

Madura Collector's Office,
Dated the 31st Octr. 1934.

BOARD OF REVENUE
MADRAS
5-NOV1934
LAND REVENUE

From

W. Scott Brown Esq., I.C.S.,
Collector of Madura

To

The Secretary to the Commissioners of
Land Revenue and Settlement,
Madras.

Sir,

ARREARS - Irrecoverable - C.S.M.Collectors - Periyakulam taluk - L.Ratan Singh - Defaulter Adjudged insolvent - Write off - Provision.

A sum of Rs.3-2-0 under C.S.M.Collectors due from L.Ratan Singh, an adjudged insolvent has been in arrears since April 1932. The lands of the defaulter were sold by the Official Receiver, Madura and the sale proceeds realised were adjusted towards a portion of the arrears of a loan advanced to the defaulter. The arrear under C.S.M.Collectors referred to ..... could not be realised and has therefore to be written off the accounts as irrecoverable.

The question is whether I can write off this arrear under the powers delegated in Appendix No.30 to the Madras Financial Account Code, Vol.II which empowers Collectors to write off irrecoverable arrears under revenue survey advances up to a limit of Rs.50/- in each case. I doubt whether the above provision includes writes-off of arrears under C.S.M. Collectors. In case it does not, I request that sanction may be obtained for writing off the sum of Rs.3-2-0 as irrecoverable. B.P.Mis.No.2707 dated 12th Novr.(34) 24 dealing with the writing off of old arrears under C.S.M.Collectors is not clear on the point.

Ir 220 of the book (Part III W)

Ir 50 (C)

s.v.-A-1-11-34.

For Collector.

2/11

Reg 1/11

able the concerned Tahsildars to make inquiries of their indentity, with the help of the Casba Basaar Shanbhogur who was sent on special duty. Save for certain School Registers, their utmost efforts resulted in nothing substantial in spite of repeated adjournments that had to be obtained from Court; and in my letter Ref.A.312/43 I gave expression to may misgivings about the advisability of pursuing of the matter further.

4. In the end, after obtaining some more adjournments summons were taken out to four persons under instructions from the Casba Bazaar Shanbhogur. But when the trial came they were found to be far too unreliable to be called as witnesses for the Government.

5. The only evidence we could adduce in the case consisted of school records-paras 8 to 11 of the judgment have discussed this aspect at great length. It is extremely difficult to sustain any contemplated suit on this evidence, particularly in the face of the testimony of the teachers.

6. On the evidence placed before the Sub Judge, the conclusion he has come to appears to be right. But if it is felt that the charge of false personation is not baseless, evidence may be still be gathered; and if it is found enough to sustantiate the charge, a suit may be filed immediately it is completed. If no further evidence is forth coming no useful prupose will be served in pursuing the matter.

7. In sub Court A.S.No.61 and 62 of 1942 (District Court A.S.No.110 and 111 of 1942) the same order holds. The Government will now be struck off from its roll as the legal representative of the last male holder, and the claimants names will be substituted. If this order is to be constested a suit would have to be filed; and the same considerations set out above will apply.

8. I request the fee fixed by the decree may be kindly sent.

- - - -

TVR.S 1/11.

Comptroller's Statement of Receipts for the month of March 1964

XIII Other Taxes & Duties

XIII - Receipts under the undermentioned Regulations			
	Penalties.	Fees for Certificate licences.	Miscellaneous
I Rights to sell by Auction	£ 34 5 6	£ 91	
II Duties on Horses			
III Rights and Duties	247	91	

Brought Collected £ 15 4 40 £ 70

Office of Secretary,
Board of Revenue, Dec

Home (G) DCM.

11/16/11

G.O. Ms. No. 3367 Dt [redacted]

Escheat - South Kanara district - Mangalore Town - Casba Bazaar village - Properties of the late CHENNABASAPPA CHETTIY - Handing over to the claimants - Proposal - Approved.

Read the following:-

CNo 3434 G/11 p 1 cf From the Board of Revenue, Ref. F. 1798/43-7 Dt 28-X-11

p 1 cf

The Govt. accept the recommendation of the Board of Revenue that the real properties of the late CHENNABASAPPA CHETTY, Casba Bazaar village, Mangalore Town, South Kanara district, which are now in the possession of the Govt., may be handed over to the two claimants,

M on p 1 cf

Shivalingappa Chetty and Shiva Chetty, along

4 K on p 3 cf

with the rents collected by the Govt., after

8

deducting the expenses incurred so far on their management of these properties

K ord/B&F

4 B.S.O. 197-4- ... net at Rs.

To the Board of Revenue
(with papers & 2 others)
re A. G. thro' Finance

Dftd
with end
16/4

Escheat - (Sarki Karara) - Mangalore Town - Casba Bazaar village - Personal and real properties of the late Chennabasappa Chetty - Handing over to claimants

CNo. 34 344 G/44 p1 cf From the Board of Revenue, Rc. F. 37 98/43-7 dt 28.8.44

The file deals with the question of handing ~~over to the claimants the properties~~ personal and real, of the late Chennabasappa Chetty of casba Bazaar village, Mangalore Town to the two claimants, Shivalingappa Shetty & Shiva Shetty. Sub. Judge for a summary of the case please see paras 2 and 3 ~~of proceedings~~ on pp 1-2 ng of G.O. No. 52 Home dt 5.1.44.

(M)

(M) pp 25-27 cf

2 On G.O. No. 52 Home dt 5.1.44 the Govt ordered that the question of declaring the properties mentioned above as escheat should be deferred till the escheat proceedings in regard to the personal properties which were pending ~~before~~ before the Sub Court, Mangalore (Escheat case No. 1 of 1942) were decided by that court. ~~The Sub Judge has~~ The court has now given the decision that the two claimants, Shivalingappa Shetty and his brother Shiva Shetty are the legal heirs entitled to ~~all the~~ the properties of the late Chennabasappa Shetty.

7 Jan 2 p 3 cf (X) G.O. 609 Home 2.11.42

para 12 p 19 cf

3 The enquiry held by the Sub-Judge is only a summary one - under ~~section~~ Clause 16(7) of Regulation III of 1802, in respect of the personal (moveable) properties. No appeal is provided for under this regulation. The question ~~is~~ therefore for consideration in this file is ~~are~~ whether a suit should be filed

Extract at (N)

to set aside this "Summary" order and also for a declaration of escheat of all the properties or whether the properties now in the possession of the Govt. should be handed over to the two claimants (along with the rents collected after deducting the expenses incurred so far cf K on p3 of d/17-11-1944). The Govt. Pleader, Mangalore, is of opinion that it is difficult to sustain a suit in view of the fact that there is not enough evidence to prove the Govt. case (please see his letter on pp3-5 of). The Collector requests that orders to make over the properties to the claimants. The Board of Revenue recommends the Collector's proposal pp1-3 of

A 4 for orders whether the Board's recommendation will be accepted. Finance may see for remarks. pp1 of

9/11/44 CW 9/11/44 HCR

The Bdi recommendation may be accepted

G 9/11/44

19 NOV 1944 BOARD'S DEPARTMENT

Fin. M. 5689 dtd 12.11.44

Home U.O 34344 9/44-1 10-11-44.

Fin (Dept A.)

Both the Govt Pleader, Mangalore & the Collector are of the opinion that there is no use filing an appeal against the Sub-Judge's decision. Fin may agree with Home that the Board's recommendation may be accepted.

10.11.44

DS 12.11.44 Home

Home (9) Deptt

Please see finance department's note above. A draft order is subd for approval

15/11/44 CW

15/11/44 HCR

14 NOV 1944 SECRETARIAT HOME DEPARTMENT

14 NOV 1944 POST OFFICE MANGALORE

35446 14.11.44

pp7-8 of Issued as G.O. 3367 Home dt 16.11.44